

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-281-2023 (O&M)

Date of Decision: 17.01.2023

Suresh

.....Petitioner

Versus

Ram Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of direction to the Ld. Civil Judge (Sr. Division) Fatehabad to decide the application under Order 39 Rules 1 and 2 CPC filed by the petitioner/plaintiff.

2. Given the nature of order being passed, there is no necessity to issue notice to the respondent/defendants, as no prejudice would be caused to them. Notice to the respondents is dispensed with.

3. I have heard learned counsel for the petitioner/plaintiff and gone through the case file.

4. It transpires that the petitioner/plaintiff filed a suit for permanent injunction claiming himself to be the owner of the land in question and that certain construction is being raised on his land by way of encroachment by the defendants and as per the plaintiff, if the construction is carried out at this stage, he will be deprived of the usage of his land in case of disposal of the suit in his favour and therefore, he is seeking expeditious decision on his application moved under Order 39 Rules 1 and 2 CPC.

5. I am of the view that the plaintiff/petitioner is unnecessarily approaching this Court by way of present petition as the case is already slated for hearing for 31.01.2023 before the Court below.

6. In view thereof, this Court is not inclined to interfere at this stage. However, in order to balance the equities, the revision petition is disposed of

with the observation that in case subsequently it is so found that the defendants have taken any advantage of delay in disposal of the application under Order 39 Rules 1 and 2 CPC pending before the Ld. Trial Court, they shall not later on claim any equity on the ground that construction has since already been raised and the same shall be at their own risk, consequences and peril. It would also be appreciated if the Ld. Trial Court takes a decision on the application under Order 39 Rules 1 and 2 CPC as expeditiously as possible without granting any unnecessary adjournments.

- 7. Disposed of in above terms.
- 8. Pending civil miscellaneous applications, if any, shall also stand disposed of.

(ARUN MONGA)

JUDGE

January 17, 2023
ashish

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No
Whether speaking/reasoned:	Yes/No